

REMARKS

Claims 1-28 were submitted for examination. All claims were rejected. Claims 1-11, 13, and 15-21 have been amended. Claims 14 and 22-28 have been cancelled. New claims 29-37 have been added. No new matter has been added. Reconsideration and reexamination of the above-referenced patent application, is respectfully requested.

The Examiner objected to the specification as not including a "Brief Summary of the Invention" section and required Applicants to amend the patent application to include such a section. Applicants hereby respectfully traverse the objection and kindly point out to the Examiner that a "Summary of the Invention" section is optional since neither the rules nor the patent statute requires a patent applicant to provide such summary. As discussed in 37 CFR 1.73:

A brief summary of the invention indicating its nature and substance, which may include a statement of the object of the invention, *should* precede the detailed description. Such summary *should, when set forth*, be commensurate with the invention as claimed and any object recited should be that of the invention as claimed [emphasis added]. 37 CFR 1.73.

Thus, Applicants respectfully point out that the use of the word "should" and the phrase "when set forth" indicates that inclusion of a "Summary of the Invention" section is optional rather than mandatory. As a result, it is believed there is no legal basis upon which to require a patent applicant to provide a "Summary of the Invention" section in a patent application or to require an applicant to amend the patent application to include such a summary. Therefore, the objection and any requirement related thereto should be withdrawn.

35 U.S.C. § 102(e) Rejection - Dutta

Claim 1-28 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent Application Publication No. US 2002/0073204 to Rabindranath Dutta ("Dutta").

Independent claim 1 recites in part:

"when a first server is active in a peer-to-peer network having multiple peers, from a first peer querying the first server for information about a second peer in the peer-to-peer network, wherein the first server is configured to include information about all of the multiple peers in the peer-to-peer network; and when the first server is not able to satisfy the query, querying one or more neighbor peers for information about the second peer."

(Emphasis added).

Dutta teaches a peer-to-peer network where a user of a node can review characteristic data of a connected node and determine if the connected node should be disconnected to reduce data traffic. (Abstract) Dutta also teaches that each node includes a client subcomponent and a server subcomponent. When a user at a node enters a search query, the search query is copied to a list of peer nodes to which the node is connected, such as a connection host list. When the node receives the query, its server subcomponent processes the query by searching its own database to satisfy the query. (Figure 2C; P[0036]; P[0037]). Dutta further teaches that each node has a list of addresses of peer nodes, and these nodes can directly communicate with each other without a central or intermediate server. (P[0006]).

Applicants submit that Dutta does not teach querying a node and when that node is not able to satisfy the query from a requesting node, the query is sent to the neighbor nodes of the requesting node.

Applicants submit that Dutta does not teach the limitations as claimed in claim 1, and at least for this reason, claim 1 is not anticipated by Dutta and is

patentable over Dutta. Because claims 2-10 depend from and further limit claim 1, they are also patentable over Dutta.

Applicants submit that, at least for this reason, independent claims 11, 16, and 29 and their corresponding dependent claims are also patentable over Dutta.

#### CONCLUSION

Applicants respectfully submit that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call David Tran at (408) 765-4692.

Authorization is hereby given to charge our Deposit Account No. 50-0221 for any charges that may be due.

Respectfully submitted,



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